

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ROBERT O. DINKINS,

Plaintiff,

v.

U.S. PENITENTIARY ATLANTA,

Defendant.

No. 4:19-cv-2398-PLC

MEMORANDUM AND ORDER

This matter is before the Court upon review of a document filed pro se by plaintiff Robert O. Dinkins, a federal prisoner. It appears plaintiff intends to file a civil rights complaint. However, he neither paid the filing fee nor sought leave to proceed in forma pauperis. He also failed to use a Court form as required by E.D. Mo. Local Rule 2.06(A), and he failed to sign the document as required by Rule 11 of the Federal Rules of Civil Procedure.

The Court will give plaintiff 30 days to file an amended complaint on the proper form, and to either pay the \$400 filing fee or file a motion for leave to proceed in forma pauperis. Because the Court will require plaintiff to amend his pleading, it is unnecessary to return the instant document to him for his signature.

Plaintiff must type or neatly print the amended complaint on the Court's prisoner civil rights complaint form, which will be provided to him. *See* E.D. Mo. L.R. 2.06(A) ("All actions brought by pro se plaintiffs or petitioners should be filed on Court-provided forms"). Plaintiff must comply with the Federal Rules of Civil Procedure, including Rules 8 and 10. Rule 8 requires plaintiff to set forth a short and plain statement of the claim showing entitlement to relief, and it also requires that each averment be simple, concise and direct. Rule 10 requires plaintiff to state

his claims in separately numbered paragraphs, each limited as far as practicable to a single set of circumstances.

In the “Caption” section of the amended complaint, plaintiff must state the first and last name, to the extent he knows it, of each defendant he wants to sue. Plaintiff should also indicate whether he intends to sue each defendant in his or her individual capacity, official capacity, or both.¹ Plaintiff should avoid naming anyone as a defendant unless that person is directly related to his claim.

In the “Statement of Claim” section, plaintiff should begin by writing the first defendant’s name. In separate, numbered paragraphs under that name, plaintiff should write the specific factual allegations supporting his claim or claims against that defendant. Plaintiff must also clearly state where the events giving rise to his claims occurred.

If plaintiff names more than one defendant, he should only assert claims that arise from the same transaction or occurrence, or simply put, claims that are related to each other. *See* Fed. R. Civ. P. 20(a)(2). Alternatively, plaintiff may choose a single defendant, and set forth as many claims as he has against that defendant. *See* Fed. R. Civ. P. 18(a).

If plaintiff is suing more than one defendant, he should proceed in the same manner with each one, separately writing each individual defendant’s name and, under that name, in numbered paragraphs, the factual allegations supporting his claim or claims against that defendant, including a clear statement about where the relevant events occurred. Plaintiff’s failure to make specific factual allegations against any defendant will result in that defendant’s dismissal.

Accordingly,

¹ The failure to sue a defendant in his or her individual capacity may result in the dismissal of that defendant.

IT IS HEREBY ORDERED that the Clerk is directed to mail to plaintiff a copy of the Court's prisoner civil rights complaint form.

IT IS FURTHER ORDERED that the Clerk is directed to mail to plaintiff a copy of the motion to proceed in forma pauperis form for prisoners.

IT IS FURTHER ORDERED that plaintiff must file an amended complaint within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that plaintiff must either pay the \$400 filing fee **or** submit a motion to proceed in forma pauperis within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that if plaintiff files a motion to proceed in forma pauperis, he must also file a certified copy of his prison account statement for the six-month period preceding the filing of the complaint.

If plaintiff fails to timely comply with this order, the Court will strike the document he filed pursuant to Rule 11 of the Federal Rules of Civil Procedure and will also dismiss this action without prejudice and without further notice.

If this action is dismissed for non-compliance with this order, the dismissal will not count as a "strike" under 28 U.S.C. § 1915(g).



PATRICIA L. COHEN
UNITED STATES MAGISTRATE JUDGE

Dated this 30th day of August, 2019